

# OVERVIEW OF SECTION 503 OF THE REHABILITATION ACT

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# THE BEST SOURCE FOR INFO

- [www.dol.gov/ofccp/regs/compliance/factsheets/Sec\\_503\\_508c.pdf](http://www.dol.gov/ofccp/regs/compliance/factsheets/Sec_503_508c.pdf)
- Took effect 3-24-2014
  - Phase in for companies with AAPs based on date of AAP
- Covers Federal contractors and sub-contractors with 50 or more employees and \$50,000 or more in Federal contracts
- Sister legislation in VEVRA with similar mandates and goals (8%)

## MAJOR ELEMENTS OF 503

- Utilization goal of 7% (targeted % of IWD in company workforce)
- Outreach and recruitment
- Data collection and record keeping
- Invitation to self-identify
- Reasonable accommodation
- Incorporation of EEO clause
- ADAAA revised definition of disability

## HIGHLIGHTS OF 503

- Strengthens the affirmative action provisions
- Establishes a utilization goal to assist in measuring effectiveness
- Requires invitations to self-identify
- Requires collection of data related to applicants and hires with disabilities to create greater accountability
- Conforms to ADAAA

## ON ADAAA.....

- Clarifies reasonable accommodation obligation to the use of electronic and online job application system
- Clarifies that persons without disabilities cannot make claims of discrimination under 503

# AAP AND APPLICABILITY

- Intended to be a management tool
- Institutionalizes commitment to equality of opportunity
- More than just a paperwork exercise
- Intended to be dynamic in nature
- Includes measureable objectives, quantitative analyses and internal reporting and auditing systems to measure progress

# INVITATION TO SELF IDENTIFY

- Significant and substantive changes
- Pre-offer invitation now required for ALL applicants
- Primary reason: collect pertinent data in hiring and selection processes
- Post-Offer Invitation
- Invitation to all existing employees: 1st yr; then 5 yr intervals
- MUST USE LANGUAGE OF OFCCP - exactly

## INVITATION TO SELF IDENTIFY

- May not compel or coerce
- May identify applicants with known or obvious disabilities
- Information must be kept confidential and maintained in data analysis file and NOT in the individual's medical record file.
- Applicants referred by state VR can be counted, even if they do not self-ID



# UTILIZATION GOALS/ANNUAL EVALUATION

- Goal of 7% for entire workforce
  - Not rigid and inflexible quota – only a goal
  - Not a ceiling or a floor
  - If > 100 employee, 7%goal is for each job class
- References American Community Survey
- Other data is available locally in each state
- Mirrors goals framework for minorities and women under EO 11246

## ACTIONS RE: UTILIZATION GOAL

- Conduct annual evaluation (form)
- Identify problem areas
- Develop and exercise action-oriented programs and strategies
- Align with effective resource entities to achieve the goal or to help justify why goal not achieved (like state VR)
- Failure to attain goal – not a finding or admission of discrimination
- Not a quota

# DATA COLLECTION

- Requires documentation of several computations/comparisons pertaining to applicants and hires
  - Number of applicants who self-ID as IWD or are known to have a disability
  - Total number of job openings and jobs filled
  - Total number of applicants for job
  - Number of applicants with disabilities
  - Total number of applicants hires

## MORE ON THE DATA

- Data is to be collected on an annual basis
- Maintain data for a period of 3 years
- Data includes information regarding applicants and applicants hired (with or without accommodation) as noted previously.
- OFCCP will NOT be using applicant and hiring data to conduct underutilization or impact ratio analysis as is under EO 11246
- **Instead, OFCCP looks at effectiveness of recruitment efforts**

# OUTREACH AND RECRUITMENT

- OFCCP suggests use of recruitment and hiring resources/strategies
  - Work study
  - Career days
  - Other steps to attract IWDs
  - Alignment with productive partners such as the public VR program
- Contractor must send written notice of company policy to all subcontractors requesting action on their part as well

# OUTREACH AND RECRUITMENT

- Self assessment of external outreach and recruitment efforts(mandatory)
  - Annual assessment
  - Documentation required
  - Conclusions
  - Implementation of alternative efforts if initial efforts fail
- Record keeping obligation
  - Retain records for 3 years
  - Be sure to document actions to comply

# RECORDKEEPING

- Recordkeeping requirement requires
  - Measurement of effectiveness of AAP
  - Indications of need for remedial action
  - Determination of attainment of objectives
  - Did IWDs have opportunity to participate in all company educational, recreational, social events
  - Measurement of compliance with AAP obligations

# POLICY STATEMENT

- Replaces provision the company policy “should” indicate chief executive officer’s attitude on the subject matter with “shall”
- Shall provide for an audit and reporting system and assign responsibility for implementation
- Provide notice to applicants and employees in accessible and understandable format



# REVIEW OF PERSONNEL PROCESSES

- Prescribes careful, thorough, and systemic review of personnel processes
- Periodic review of processes
- Ensure equal access to information and communication technology in personnel processes via reasonable accommodation
  - Example is accessible webpage
  - See 508 of the Rehab Act

# PHYSICAL OR MENTAL QUALIFICATIONS

- Schedule review of physical and mental job standards
  - Ensure that they are job-related for position in question and consistent with business necessity
- Use of direct threat defense
  - applicable to the IWD when there is REAL threat with significant harm (as described in the ADA)

# REASONABLE ACCOMMODATION

- Best practice suggested (not required):
  - Develop and implement written procedures for addressing and offering solutions to requests for accommodation
- Reasonable accommodation obligation extends to use of electronic or online job application systems
  - Accessible and compatible with assistive technologies for IWDs

# EQUAL OPPORTUNITY CLAUSE

- Requirement to post notices in electronic format
- Requires statement in solicitations and advertisements that company is an EEO employer of IWDs
- Prescribes reference to Section 503 regulation in contracts
  - "tis contractor & subcontractor shall abide by the requirements of 41CFR60-741.5(a). This reg. prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ/advance in employment qualified IWDs."

# AFFIRMATIVE ACTION PROGRAM

- Availability of full AAP to any employee or applicant (or their designee)
- Exception – do not need to provide data metrics for the program
- Must post location and hours available for review
- Include AAP in policy manual or make otherwise available
- Notify union officials if applicable and seek their cooperation
- Encouraged to disseminate thru meetings, internal magazines/annual reports or other media

# RESPONSIBILITY FOR IMPLEMENTATION

- Required to assign a company official to implementation
- That person's identity should appear on all internal and external communications
- Individual must be given necessary senior management support and staff to manage implementation

# TRAINING

- All personnel involved in:

- Recruitment
- Screening
- Selection
- Promotion
- Disciplinary or related processes.....

Shall be trained to ensure affirmative action commitments are implemented

# A RELIABLE RESOURCE FOR MANDATES & HELP WITH IMPLEMENTATION

- State Vocational Rehabilitation program (VR)
  - Links businesses to all local community resources
  - Works via a lead point of contact to minimize confusion and redundancy
  - Has a talent pool of candidates and much more
- Contact info for this presentation:
  - [Peggy.anderson@rehab.alabama.gov](mailto:Peggy.anderson@rehab.alabama.gov)
  - Visit [www.rehab.alabama.gov/business-partners](http://www.rehab.alabama.gov/business-partners)
  - 205-290-4457
- NOW LET'S SEE THE RESOURCES!!!!

